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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

ROSEMARY MUCKLOW; MIKE) No. C 11-2420 EDL
FURSMAN, in their capacities as Trustees of)
the NORTHERN CALIFORNIA UFCW)
WHOLESALE HEALTH & WELFARE)
FUND,) EX PARTE APPLICATION TO
) CONTINUE CASE MANAGEMENT
Plaintiffs,) CONFERENCE; [PROPOSED] ORDER
)
v.)
)
AMARAL & SONS, INC., a California)
Corporation,)
)
Defendant.)
)
)

Pursuant to Civil Local Rule 7-10, Plaintiffs hereby request that the Case Management Conference scheduled for January 3, 2012 at 10:00 a.m. be continued for sixty (60) days.

Plaintiffs filed their Complaint for Breach of Contract, Damages, and Audit on May 18, 2011. Defendant Amaral & Sons, Inc. (hereinafter "Defendant") was served with the Complaint via personal service on Jackie Amaral on July 30, 2011, for which proof of service with summons was filed with the Court on August 8, 2011. After Defendant failed to timely answer or otherwise respond to the Complaint, the Court entered Defendant's default on September 2, 2011.

On September 2, 2011, counsel for Jackie Amaral filed a letter with the Court alleging,

without supporting evidence, that Ms. Amaral was not an officer, director, or shareholder of Defendant, and therefore not legally obligated to respond to the Complaint. (Document No. 14.) Counsel stated he represented Ms. Amaral and not the Defendant corporation.

On November 3, 2011, Ms. Amaral submitted a declaration to Plaintiffs stating that her deceased husband Wilbert Anthony Amaral and his brother, Marvin R. Amaral, were the equal and sole shareholders of Amaral & Sons, Inc., a California Corporation.

On November 16, 2011, Plaintiffs received documents from the California Secretary of State in response to a request for information. These documents indicated that Defendant filed a Certificate of Dissolution on September 12, 2011.

Based on this information, Plaintiffs intend to amend the Complaint to add as Defendants Marvin R. Amaral, as shareholder of dissolved corporation Amaral & Sons, Inc., pursuant to California Corporations Code § 2011(a)(3), and Marvin R. Amaral, individually, pursuant to California Corporations Code § 2011(a)(1)(B).

Given these facts, Plaintiffs respectfully request that the Case Management Conference be continued for sixty days to allow Plaintiffs time to file a First Amended Complaint adding these new defendants.

The above stated facts are set forth in the accompanying declaration of Kristina M. Zinnen in Support of Ex Parte Application to Continue Case Management Conference, filed herewith.

Dated: December 22, 2011

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: _____/s/_____
KRISTINA M. ZINNEN
Attorneys for Plaintiffs

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[PROPOSED] ORDER CONTINUING CASE MANAGEMENT CONFERENCE

Based upon the foregoing Ex Parte Application to Continue Case Management Conference, and Declaration of Kristina M. Zinnen in support thereof, the Court orders the continuance of the case management conference for 60 days, or as soon thereafter as a court date is available. In addition, the Court Orders: the Case Management Conference is continued to March 27, 2012 at 3:00 p.m.

Dated: December 28, 2011

